

Paper 1

Mail Stop Interference
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Filed 27 May 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Vector Tobacco Ltd.
Junior Party
(U.S. Patent 6,907,887),

v.

North Carolina State University,
Senior Party
(U.S. Application 11/416,887).

Patent Interference No. 105,632 (MPT)
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 Part A. Declaration of interference

2 An interference is declared (35 U.S.C. § 135(a)) between the above-
3 identified parties. Details of the application(s), patent (if any), reissue application
4 (if any), count(s) and claims designated as corresponding or as not corresponding
5 to the count(s) appear in Parts E and F of this DECLARATION.

6 Part B. Judge managing the interference

7 Administrative Patent Judge Michael P. Tierney has been designated to
8 manage the interference. Bd. R. 104(a).

9 Part C. Standing order

10 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
11 DECLARATION. The STANDING ORDER applies to this interference.

12 Part D. Initial conference call

13 A telephone conference call to discuss the interference is set for 2:00 p.m. on
14 July 16, 2008 (the Board will initiate the call).

15 No later than four business days prior to the conference call, each party shall
16 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
17 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18 A sample schedule for taking action during the motion phase appears as
19 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the

1 schedule prior to the conference call and to agree on dates for taking action. A
2 typical motion period lasts approximately eight (8) months. Counsel should be
3 prepared to justify any request for a shorter or longer period.

4 Part E. Identification and order of the parties

5 Junior Party

6 Named Inventor: Mark A. Conkling, Chapel Hill NC

7 Involved Patent: U.S. Patent 6,907,887, issued June 21, 2005, based upon
8 U.S. Application 10/729,121, filed December 5, 2003.

9 Title: Modifying Nicotine and Nitrosamine Levels in Tobacco

10 Assignee: Vector Tobacco Ltd.

12 Senior Party

13 Named Inventors: Mark A. Conkling, Chapel Hill NC

14 Wen Song, San Diego CA

15 Nandini Mendu, Durham NC

16 Involved Application: U.S. Application 11/416,887, filed May 3, 2006.

17 Title: Tobacco Products with Reduced Nicotine

18 Assignee: North Carolina State University

1 The senior party is assigned exhibit numbers 1001-1999. The junior party is
2 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior
3 party is responsible for initiating settlement discussions. SO ¶ 126.1.

4 Part F. Count and claims of the parties

5 Count 1

6 A tobacco product according to claim 95 of U.S. Application
7 11/416,887.

9 The claims of the parties are:

10 Conkling, U.S. Patent 6,907,887: 1-20
11 Conkling, U.S. Application 11/416,887: 94-109

13 The claims of the parties which correspond to Count 1 are:

14 Conkling, U.S. Patent 6,907,887: 1-20
15 Conkling, U.S. Application 11/416,887: 94-109

17 The claims of the parties which do not correspond to Count 1, and therefore
18 are not involved in the interference, are:

19 Conkling, U.S. Patent 6,907,887: None
20 Conkling, U.S. Application 11/416,887: None
21

1 The parties are accorded the following benefit for Count 1:

2 North Carolina State University:

3 i) U.S. Application 10/356,076, filed January 31, 2003, now U.S.
4 Patent 7,304,220, issued December 4, 2007;

5 ii) U.S. Application 09/021,286, filed February 10, 1998, now
6 U.S. Patent 6,586,661, issued July 1, 2003; and,

7 iii) U.S. Provisional Application 60/049,471, filed June 12, 1997.

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9 Vector Tobacco Ltd.:

10 i) U.S. Application PCT/US02/18040, filed June 6, 2002;
11 ii) U.S. Provisional Application 60/297,154, filed June 8, 2001.

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1 Part G. Heading to be used on papers

2 The following heading must be used on all papers filed in this interference,
3 see SO ¶ 106.1.1:

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5 UNITED STATES PATENT AND TRADEMARK OFFICE

6
7
8 BEFORE THE BOARD OF PATENT APPEALS
9 AND INTERFERENCES

10
11
12 Vector Tobacco Ltd.
13 Junior Party
14 (U.S. Patent 6,907,887),

15
16 v.

17
18 North Carolina State University,
19 Senior Party
20 (U.S. Application 11/416,887).

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23 Patent Interference No. 105,632 (MPT)
24 (Technology Center 1600)

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Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite

3 processing of the request. Please attach a copy of Parts E and F of this

4 DECLARATION with a hand-drawn circle around the patents and applications for

5 which a copy of a file wrapper is requested.

/Michael P. Tierney/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER

Copy U.S. Patent 6,907,887

Copy of claims of 11/416,887

Revised 3 January 2006

1 cc (via overnight delivery):

2
3 Attorney for Vector Tobacco Ltd.:

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